

MATTHEW G. McHENRY, OSB# 043571

Levine & McHenry LLC
1050 SW 6th Ave Ste 1414
Portland OR 97204
(503)-546-3927
E-Mail: matthew@levinemchenry.com

AMANDA A. THIBEAULT, OSB #132913

Alvarez Thibeault, LLC
330 NE Lincoln Street, Suite 100
Hillsboro, Oregon 97124
(503) 640-0708
Facsimile (503) 214-5436
amanda@aatlegal.com

Attorneys for Defendant Tony Daniel Klein

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

UNITED STATES OF AMERICA,

PLAINTIFF,

VS.

TONY DANIEL KLEIN,

DEFENDANT.

No. 3:19-CV-00234

**DECLARATION OF COUNSEL IN
SUPPORT OF MOTION TO CONTINUE**

I, Amanda A. Thibeault, declare:

1. I am co-counsel of record in this matter for the defendant, Tony Klein.

2. A continuance of the current trial date of July 10, 2023, to a date scheduled by the parties at a future status conference, is required by the defense in order to be able to effectively and constitutionally defend Mr. Klein at his trial.
3. This is the first continuance motion filed on behalf of Mr. Klein.
4. The Government opposes our continuation request.
5. The reason for the continuation request is that, despite ongoing, continuing, and extensive efforts by the defense team to obtain all relevant records necessary to defend Mr. Klein in his criminal case, several groups of records are still outstanding.
6. These records are not records that would simply be useful for mitigation or somewhat fruitful for cross examination. Rather, these records go to the core of Mr. Klein's defense.
7. The first group of records that are outstanding relate to facilities modifications at Coffee Creek Correctional Facility (CCCF). Oregon Department Of Corrections (ODOC) provided access to the defense on February 28, 2023, and the defense team completed an escorted tour. Video was not permitted during the tour.
8. The tour included observation and photography of the physical layout of the space, including the locations of various security windows, cameras, command posts, and nursing stations. However, throughout our tour we were cognizant of the fact that changes to the facilities at CCCF have been made since the allegations are said to have occurred in this case.

9. Mindful of that issue, we have been seeking a listing of all the physical modifications made to the facilities where these accusations are said to have occurred. We have not received that yet. Moreover, we expect to have to litigate several issues with ODOC in terms of what documents they are willing to release pursuant to our requests in the absent of a court order.
10. Once we complete litigation on those issues and receive those records, our investigation into the layout of CCCF will continue anew. We will need to schedule another tour where we can keep the location of the changes in mind, take new photos, and fight to obtain video footage of various locations.
11. Given the length of time we anticipate those records taking to come to us, the length of time it will take to perform the additional investigation related to those records, and the volume of those records, we cannot meaningfully prepare a constitutionally adequate defense for Mr. Klein with the current trial date.
12. We are also missing 3-4 large groups of records from various agencies which we have previously requested.
13. The defense expects the volume of the outstanding records to be very large, likely tens of thousands of pages. Despite diligent investigation, these records have not yet arrived. Given their importance to Mr. Klein's case and their volume, there is no meaningful way for us to incorporate them into his defense with a trial on the current date.
14. This declaration is made in good faith and in support of the motion for the continuance of the trial date in this case.

15. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief and that this declaration was executed on the 7th day of March, 2023 in Beaverton, Oregon.

Respectfully submitted on March 7, 2023.

/s/ Amanda Thibeault

Amanda A. Thibeault, OSB #132913
Attorney for Defendant Tony Daniel Klein